

and hire-purchase contracts should also be regulated.

- *services*: Several unsatisfactory features, including uncertainty, are demonstrated about the present law dealing with the service contracts, particularly service contracts which include a goods supplied component. Tentative proposals are made for regulating both consumer and commercial service contracts and comments are sought, particularly as regards the appropriateness of the definition of 'services' in the Trade Practices Act 1974 (Cth).
- *computer software*: The NSWLRC discusses the inappropriateness of many of the features of sale of goods legislation to contracts concerning the supply of computer software. Given their unusual features, it is proposed that there be specific legislation dealing with such contracts. Comment is invited on the form of such legislation and particularly on two issues: the manner of creation and the scope of the obligations which should be imposed on the supplier of software; and the relationship between such obligations and copyright under the Copyright Act 1968 (Cth).

economic impact. Throughout the issues paper the NSWLRC acknowledges that consideration of any proposals for reform must take account of their likely economic impact. In particular, costs of insurance and the pricing of goods are relevant to the proposals put forward in relation to consumer contracts. Comment is sought on these matters.

* * *

medical treatment for the dying

One should part from life as Odysseus parted from Nausicaa – blessing it rather than in love with it

Nietzsche, *Beyond Good and Evil*, (1886)

The last issue of *Reform* contained an article on the reaction to the Victorian Government's 'dying with dignity' legislation ([1988] *Reform* 82).

The Law Reform Commission of Western Australia now invites public comment on a discussion paper it has issued on medical treatment for the dying. The Commission will make final recommendations to the Government in the light of comments received on the paper.

existing position. The discussion paper 'Medical Treatment for the Dying' comments that many illnesses and conditions eventually reach a point of hopelessness where there is neither any prospect of the patient being cured nor any prospect of a further period of life of reasonable quality. Yet with the use of life support systems a patient may still live for a time though in considerable pain, stress or discomfort. In these situations it may seem inhumane to prolong the patient's life. The patient, if able to make a rational decision, may ask that treatment aimed at prolonging life should cease and instead they receive palliative care designed to ensure that he or she suffers the minimum of pain and distress before dying. Alternatively a patient may not be able to make such a request, for example if he or she is unconscious or enfeebled by illness or medication, but people with close associations with the patient may consider that course to be in the patient's best interests.

dying with dignity. The WALRC reports that a number of people who made preliminary submissions expressed concern that they would be forced through the efforts of modern medicine to endure

continued treatment when there was a no real possibility of improvement in the quality of life. Concern was expressed that modern approaches to prolonging life would not allow a person to die with dignity.

ethics and the law. Legal difficulties arise because there is doubt as to what doctors may lawfully do notwithstanding that a doctor and patient agree with each other on what ought to be done from both an ethical and medical view point. These uncertainties arise because various legal duties imposed by the Criminal Code, including the duty to provide the necessities of life, may make a doctor who does not comply with a duty liable to prosecution. Where a patient is incompetent to make a decision there is the additional problem of determining whether any other person may make decisions on behalf of the patient and so relieve the doctor of any obligation to act in accordance with one of these duties.

options for reform. As the spectre of criminal liability raised by these provisions of the Criminal Code is undesirable where doctors are endeavouring to practice medicine with a humane concern for the terminally ill, the Commission discusses various options for reform which could be adopted to remove uncertainties with the existing law. Four general approaches are discussed –

- Patients could be given an express statutory right to control their own treatment so that those acting in accordance with their wishes would not commit an offence in so acting.
- People could be given an opportunity to make advance written directions to the effect that they do not wish to receive certain treatment if they become terminally ill, or to appoint an agent by an enduring power of attor-

ney to make decisions on their behalf should they become incompetent.

- Where a person is incompetent, decisions as to treatment could be made by a proxy.
- Doctors could be permitted to decide to withdraw or withhold treatment from a patient in certain circumstances, for example where it is therapeutically useless.

other questions. Other questions discussed are –

- Should a generally applicable statutory definition of death be provided and, if so, how should it be defined?
- Should those who provided palliative care to a terminally ill patient be criminally liable if, in merely providing palliative care, they hasten the patient's death?

* * *

federal court enforcement of human rights and equal opportunity commission decisions

Surely the world we live in is but the world that lives in us.

Elizabeth Salter: Daisy Bates

the schema. Under the schema established by the Racial Discrimination Act 1975 (Cth) the Sex Discrimination Act 1984 (Cth) and the Human Rights and Equal Opportunity Act 1986 (Cth) complaints can be made to the Human Rights and Equal Opportunity Commission (the Commission) in respect of racial and sexual discrimination. The emphasis in the legislation is on the settlement of